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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,177	01/28/2004	Bing-Chung Chen	038190/269367	3688
826	7590	09/26/2006	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			FREJD, RUSSELL WARREN	
		ART UNIT		PAPER NUMBER
				2128

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/766,177	CHEN ET AL.
Examiner	Art Unit	
Russell Frejd	2128	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 28 January 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-31 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-31 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a))

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. \_\_\_\_.  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 1.28.04. 5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_.

In re Application of: Chen et al.

### ***Examination of Application #10/766,177***

1. Claims 1-31 of application 10/766,177, filed on 28-January-2004, are presented for examination.

#### ***Claim Rejections under 35 U.S.C. § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.

2.1 Claims 1-31 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The invention claims (claim 1 preamble), "*A method of reducing internal ply edges in a composite laminate having two or more zones, wherein the zones have various numbers of plies having different properties.*"

2.2 MPEP Section 2106(IV)(B)(2)(b)(ii) provides that a statutory computer process is determined not by how the computer performs the process, but by what the computer does to achieve a practical application with a useful, concrete and tangible result. For example, a computer process that simply calculates a mathematical algorithm that models noise is nonstatutory, while a claimed process for digitally filtering noise employing the mathematical algorithm is statutory. The long line of cases in this area that are referred to in MPEP Section 2106(IV)(B)(2)(b)(ii) exemplify this requirement, by utilizing in the claim language, terms such as controlling, executing, changing and removing. In view of the aforementioned requirement and the interim guidelines for 101 subject matter eligibility, the Examiner respectfully contends that

**In re Application of: Chen et al.**

the claim language of independent claims 1, 11, 17 and 25, do not claim a practical application or provide a useful, concrete and tangible result, that language claiming: (In regard to claim 1)

**determining** (emphasis added) the number of plies having each property required in each zone;

**generating** a master zone that notionally includes, for plies having each different property, the maximum number of plies having a respective property required in any one zone;

**sequencing** the plies of the master zone using a predefined series of design rules to define a stacking sequence of plies in the master zone; and

**arranging** the plies of each zone based upon the stacking sequence of plies in the master zone.

**2.3** For at least these reasons, the Examiner respectfully posits that the claims of the present invention do not meet the criteria for a statutory process. Accordingly, the claims are determined to be a method for reducing internal ply edges in a composite laminate having two or more zones, consisting solely of mathematical operations, converting one set of numbers into another set of numbers, whereby the method does not manipulate appropriate subject matter, and thus cannot constitute a statutory process (MPEP Section 2106(IV)(B)(2)(c)).

**2.4** The Examiner also posits that claims 1-31 of the present invention are a method embodied in computer executable software code, or a program per se, consisting of a computer program product, or processing circuitry, having software instructions that implement the method for reducing internal ply edges in a composite laminate having two or more zones. For at least this reason, the software instructions of the present invention do not meet the criteria for a

**In re Application of: Chen et al.**

statutory process.

**2.5** In view of the aforementioned requirement, the Examiner respectfully contends that the claim language of claims 25-31 do not claim a practical application, that language claiming a computer program product for reducing internal ply edges in a composite laminate having two or more zones. The computer program product is determined to recite data embodied on a computer-readable medium. However, the data does not impart functionality to either the data as claimed or to the computer. As such, the claimed invention recites non-functional descriptive material, *i.e.*, mere data. Non-functional descriptive material is merely carried on the medium, it is not structurally and functionally interrelated to the medium, and thereby does not manipulate, or execute, appropriate subject matter, and thus cannot constitute a statutory process (MPEP Section 2106(IV)(B)(2)(c)).

***Allowed Claims***

**3.** Claims 1-31 are deemed allowable over the prior art of record at this time, pending resolution of any rejections noted above.

***Response Guidelines***

**4.** A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned (see MPEP 710.02, 710.02(b)).

**In re Application of: Chen et al.**

**4.1 Any response to the Examiner in regard to this non-final action should be**

**directed to:** Russell Frejd, telephone number (571) 272-3779, Monday-Friday from 0530 to 1400 ET, or the examiner's supervisor, Kamini Shah, telephone number (571) 272-2279. Inquires of a general nature or relating to the status of this application should be directed to the TC2100 Group Receptionist (571) 272-2100.

**mailed to:** Commissioner of Patents and Trademarks  
P.O. Box 1450, Alexandria, VA 22313-1450

**or faxed to:** (571) 273-8300

Hand-delivered responses should be brought to the Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

**Date:** 16-September-2006



RUSSELL FREJD  
PRIMARY EXAMINER